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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,791	03/30/2004	Francis G. McCabe	073338.0180 (04-50100 FLA	4222
5073	7590	09/10/2007	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			VETTER, DANIEL	
			ART UNIT	PAPER NUMBER
			3628	
			NOTIFICATION DATE	DELIVERY MODE
			09/10/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/812,791	<b>Applicant(s)</b> MCCABE ET AL.	
	<b>Examiner</b> Daniel P. Vetter	<b>Art Unit</b> 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/30/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Status of the Claims*

1. Claims 1-26 are currently pending in this application.

### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 9-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

4. Claims 9-16 are purported to be directed to a system, however the limitations body of the claim merely list a database and other computer components that effectively make the claims only directed to computer code or logic *per se*. Accordingly these claims are directed to non-statutory subject matter as they are not directed to a process, machine, manufacture, or composition of matter.

5. Claims 17-24 are directed to logic that is stated in claim 17 to be "embodied in a computer-readable medium." A "computer-readable medium" is not given a definition in the disclosure or the claims, and reasonably encompasses non-statutory subject matter such as a carrier wave signal. Proper claims directed to computer-readable media must be limited to tangible storage media such as a hard disk or CD-ROM.

### *Claim Rejections - 35 USC § 112*

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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7. Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claims 1, 9, 17, 25 and 26 each recite "repeat[ing] the following until a selection of *one or more* services offerings has been completed . . ." (emphasis added). This language is confusing because the body of the claim goes on to make a determination and a selection, at which point one selection has been made and the repeating of the step would therefore be unnecessary although the above quoted step mandates the repetition. Accordingly, the scope of the claims is vague and indefinite because the language does not properly apprise the public of what would constitute infringement.

9. Dependent claims 2-8, 10-16, and 18-24 inherit the deficiencies of their parent claims 1, 9, and 17 through dependency and, as such, are rejected for the same reasons.

10. Claims 4, 12, 20, and 26 each recite that "the prioritization information comprising *at least one of* a compatibility metric, a proximity metric, and an evaluation metric . . ." (emphasis added). The following limitation weights all three of these metrics in relation to one another, but it is unclear how this occurs if only one is required to meet the above quoted limitation. Accordingly, the scope of the claims is vague and indefinite because the language does not properly apprise the public of what would constitute infringement.

11. The term "substantially" in claims 5, 13, 21, and 26 is a relative term that renders the claims indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Specifically, it is unclear how much the offered service has to be within the timeframe to meet the limitations of the claim.

12. Claims 8, 16, 24, and 26 recite that the timeline is a "fuzzy timeline undivided by a plurality of fixed time segments" however it is unclear how the available times are

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shown on the timelines (as required by their respective base claims) without the aid of time segments. Therefore, it is difficult to ascertain the true scope of the claims as to properly put the public on notice as to what would constitute infringement.

*Claim Rejections - 35 USC § 103*

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLorme, et al., U.S. Pat. No. 5,948,040 (Reference A of the attached PTO-892) in view of Swart, et al., U.S. Pat. Pub. No. 2002/0095319 (Reference B of the attached PTO-892).

15. As per claim 1, DeLorme, et al. teaches a method for building an itinerary, comprising: receiving one or more consumer descriptors at a consumer agent operating on behalf of a consumer (column 41, lines 45-46); identifying a plurality of recommended services from a plurality of services (column 41, lines 49-50) using a service agent operating as a service finder (column 10, lines 21-31), the recommended services identified in accordance with the one or more consumer descriptors (column 19, lines 38-39; column 41, lines 45-50), each service of the plurality of services associated with a service description (column 56, line 35); presenting a timeline and the recommended services (column 22, lines 24-26; column 41, line 57; Fig. 1B-2); repeating the following until a selection of one or more service offerings has been completed to build an itinerary of one or more events (column 39, lines 49-54): determining a selection of a service offering of the recommended services as an event

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for the itinerary (column 19, lines 35-39; column 41, lines 49-51); indicating one or more available times of the selected service offering (column 19, lines 44-45; column 41, lines 52-53); and determining a selection of an available time of the one or more available times of the selected service offering (column 19, lines 49-50; column 41, line 57).

While DeLorme, et al. broadly teaches the selection of services and times (e.g., column 19, lines 35-50; column 41, lines 45-58) and also the use of timelines for scheduling (column 22, lines 24-26; Fig. 1B-2), it does not explicitly teach that these selections are made using the timeline; which is taught by Swart, et al. (¶¶ 0107, 0110; Fig. 4a). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above teachings of Swart, et al. into the DeLorme, et al. because it allows managing and creating time-based entities in a transaction database that greatly reduces the need for management (as taught by Swart, et al.; ¶ 0024).

16. As per claim 9, DeLorme, et al. teaches a system for building an itinerary, comprising: a database operable to store one or more consumer descriptors associated with a consumer (column 19, lines 26-29); and one or more agents coupled to the database and operable to (column 13, lines 54-55): identify a plurality of recommended services from a plurality of services (column 41, lines 49-50) using a service agent operating as a service finder (column 10, lines 21-31), the recommended services identified in accordance with the one or more consumer descriptors (column 19, lines 38-39; column 41, lines 45-50), each service of the plurality of services associated with a service description (column 56, line 35); present a timeline and the recommended services (column 22, lines 24-26; column 41, line 57; Fig. 1B-2); repeat the following until a selection of one or more service offerings has been completed to build an itinerary of one or more events (column 39, lines 49-54): determine a selection of a service offering of the recommended services as an event for the itinerary (column 19, lines 35-39; column 41, lines 49-51); indicate one or more available times of the selected service offering (column 19, lines 44-45; column 41, lines 52-53); and determine a selection of an available time of the one or more available times of the

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selected service offering (column 19, lines 49-50; column 41, line 57). While DeLorme, et al. broadly teaches the selection of services and times (e.g., column 19, lines 35-50; column 41, lines 45-58) and also the use of timelines for scheduling (column 22, lines 24-26; Fig. 1B-2), it does not explicitly teach that these selections are made using the timeline; which is taught by Swart, et al. (¶¶ 0107, 0110; Fig. 4a). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above teachings of Swart, et al. into the DeLorme, et al. because it allows managing and creating time-based entities in a transaction database that greatly reduces the need for management (as taught by Swart, et al.; ¶ 0024).

17. As per claim 17, DeLorme, et al. teaches logic for building an itinerary, the logic embodied in a computer-readable medium and operable to: receive one or more consumer descriptors at a consumer agent operating on behalf of a consumer (column 41, lines 45-46); identify a plurality of recommended services from a plurality of services (column 41, lines 49-50) using a service agent operating as a service finder (column 10, lines 21-31), the recommended services identified in accordance with the one or more consumer descriptors (column 19, lines 38-39; column 41, lines 45-50), each service of the plurality of services associated with a service description (column 56, line 35); present a timeline and the recommended services (column 22, lines 24-26; column 41, line 57; Fig. 1B-2); repeat the following until a selection of one or more service offerings has been completed to build an itinerary of one or more events (column 39, lines 49-54); determine a selection of a service offering of the recommended services as an event for the itinerary (column 19, lines 35-39; column 41, lines 49-51); indicate one or more available times of the selected service offering (column 19, lines 44-45; column 41, lines 52-53); and determine a selection of an available time of the one or more available times of the selected service offering (column 19, lines 49-50; column 41, line 57). While DeLorme, et al. broadly teaches the selection of services and times (e.g., column 19, lines 35-50; column 41, lines 45-58) and also the use of timelines for scheduling (column 22, lines 24-26; Fig. 1B-2), it does not explicitly teach that these

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selections are made using the timeline; which is taught by Swart, et al. (¶¶ 0107, 0110; Fig. 4a). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above teachings of Swart, et al. into the DeLorme, et al. because it allows managing and creating time-based entities in a transaction database that greatly reduces the need for management (as taught by Swart, et al.; ¶ 0024).

18. As per claims 2, 10, and 18, DeLorme, et al. in view of Swart, et al. teaches the method of claim 1 system of claim 9 and logic of claim 17 as described above. DeLorme, et al. further teaches comparing the service descriptions with the one or more consumer descriptors comprising a consumer requirement (column 56, lines 33-36); and identifying the recommended services in accordance with the comparison (column 56, lines 33-36).

19. As per claims 3, 11, and 19, DeLorme, et al. in view of Swart, et al. teaches the method of claim 1 system of claim 9 and logic of claim 17 as described above. DeLorme, et al. further teaches receiving prioritization information associated with the services (column 26, lines 30-31), the prioritization information comprising at least one of a compatibility metric, a proximity metric, and an evaluation metric for a service, the compatibility metric measuring compatibility of the service and the one or more consumer descriptors, the proximity metric measuring the distance between the service and a consumer location of the consumer, the evaluation metric measuring at least one of a popularity and a rating of the service (column 26, lines 40-42, 65-67; column 30, lines 28-31); prioritizing the services in accordance with the prioritization information (column 26, lines 37-40); and identifying the recommended services in accordance with the prioritization (column 26, lines 42-44).

20. As per claims 4, 12, and 20, DeLorme, et al. in view of Swart, et al. teaches the method of claim 1 system of claim 9 and logic of claim 17 as described above. DeLorme, et al. further teaches receiving prioritization information associated with the services (column 26, lines 30-31), the prioritization information comprising at least one

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of a compatibility metric, a proximity metric, and an evaluation metric for a service, the compatibility metric measuring compatibility of the service and the one or more consumer descriptors, the proximity metric measuring the distance between the service and a consumer location of the consumer, the evaluation metric measuring at least one of a popularity and a rating of the service (column 26, lines 40-42, 65-67; column 30, lines 28-31); prioritizing the services in accordance with the prioritization information (column 26, lines 37-40), the compatibility metric being weighted higher than the proximity metric (column 26, lines 41-42), the proximity metric being weighted higher than the evaluation metric (column 26, lines 64-66); and identifying the recommended services in accordance with the prioritization (column 26, lines 42-44, 51-54). Examiner notes that the above weighting scheme is at least implicit in the teachings of DeLorme, et al. because the reference teaches that evaluation is a parameter that is capable of being weighted in accordance with other preferences (column 47, lines 40-41) and that the system is capable of weighting preferences in any order (column 23, lines 38-39; column 26, lines 14-28). "[I]t is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

21. As per claims 5, 13, and 21, DeLorme, et al. in view of Swart, et al. teaches the method of claim 1 system of claim 9 and logic of claim 17 as described above.

DeLorme, et al. further teaches indicating an offered timeframe substantially during which the selected service offering is offered (column 19, lines 37-41, 49-50; column 41, line 51); receiving a selection of the selected service offering substantially within the offered timeframe (column 19, lines 35-37); and indicating the one or more available times of the selected service offering substantially within the offered timeframe (column 19, lines 43-45, 49-50; column 41, lines 52-57).

22. As per claims 6, 14, and 22, DeLorme, et al. in view of Swart, et al. teaches the method of claim 1 system of claim 9 and logic of claim 17 as described above.

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DeLorme, et al. further teaches detecting that the service offering has been placed in the timeline (column 21, lines 8-12).

23. As per claims 7, 15, and 23, DeLorme, et al. in view of Swart, et al. teaches the method of claim 1 system of claim 9 and logic of claim 17 as described above.

DeLorme, et al. further teaches detecting that the service offering has been placed at a time corresponding to the available time (column 21, lines 8-12).

24. As per claims 8, 16, and 24, DeLorme, et al. in view of Swart, et al. teaches the method of claim 1 system of claim 9 and logic of claim 17 as described above.

DeLorme, et al. further teaches the timeline comprises a fuzzy timeline undivided by a plurality of fixed time segments (column 41, lines 24-25).

25. As per claim 25, DeLorme, et al. teaches a system for building an itinerary, comprising: means for receiving one or more consumer descriptors at a consumer agent operating on behalf of a consumer (column 41, lines 45-46); means for identifying a plurality of recommended services from a plurality of services (column 41, lines 49-50) using a service agent operating as a service finder (column 10, lines 21-31), the recommended services identified in accordance with the one or more consumer descriptors (column 19, lines 38-39; column 41, lines 45-50), each service of the plurality of services associated with a service description (column 56, line 35); means for presenting a timeline and the recommended services (column 22, lines 24-26; column 41, line 57; Fig. 1B-2); means for repeating the following until a selection of one or more service offerings has been completed to build an itinerary of one or more events (column 39, lines 49-54): determining a selection of a service offering of the recommended services as an event for the itinerary (column 19, lines 35-39; column 41, lines 49-51); indicating one or more available times of the selected service offering (column 19, lines 44-45; column 41, lines 52-53); and determining a selection of an available time of the one or more available times of the selected service offering (column 19, lines 49-50; column 41, line 57). While DeLorme, et al. broadly teaches the selection of services and times (e.g., column 19, lines 35-50; column 41, lines 45-58)

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and also the use of timelines for scheduling (column 22, lines 24-26; Fig. 1B-2), it does not explicitly teach that these selections are made using the timeline; which is taught by Swart, et al. (§§ 0107, 0110; Fig. 4a). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above teachings of Swart, et al. into the DeLorme, et al. because it allows managing and creating time-based entities in a transaction database that greatly reduces the need for management (as taught by Swart, et al.; § 0024).

26. As per claim 26, DeLorme, et al. in view of Swart, et al. teaches the limitations of claims 1-8 as described above.

### *Conclusion*

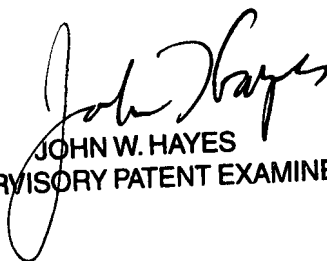
27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Webber, et al., U.S. Pat. No. 5,331,546 (Reference C of the attached PTO-892) teaches a travel planner system that automatically constructs itineraries with available seats for a traveler's trip request which conform to pre-stored reasonableness standards which include a satisfactory check with an individualized travel policy of the traveler, and displays at least some of the itineraries by departure or arrival time. Jones, et al., U.S. Pat. No. 7,181,410 (Reference D of the attached PTO-892) teaches a travel system for processing travel requests based on a user's travel destination goal such as a meeting place and time; wherein a system selects a destination terminal, if one is not provided, and estimates a travel time between the destination terminal and the destination goal; and wherein an itinerary is then built interactively with the user selecting air, bus or train transportation, ground transportation, and, optionally, hotels, restaurants, and activities.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel P. Vetter whose telephone number is (571) 270-1366. The examiner can normally be reached on Monday through Thursday from 8am to 6pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JOHN W. HAYES  
SUPERVISORY PATENT EXAMINER